

#### DETAILED ACTION

Currently pending are claims 1-14.

The Examiner stated that claim 8 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 has been amended to overcome the 35 U.S.C. § 112 rejection.

The Examiner stated that the claims are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chellis et al [U.S. Publication No. 2002/0120744]. Applicant respectfully traverses this rejection for at least the reasons stated below.

The Examiner stated that “Chellis does not explicitly mention as claimed language (e.g. , the allocation percentage for user B based on the availability of the shared resource to user A, wherein if the shared resource is unavailable to user A, the allocation percentage for user B is decreased and wherein if the shared resource is available to user A the allocation percentage for user B is increased.” Applicant agrees with this assertion. The Examiner suggests that it would have been obvious to provide these limitations based on Chellis’ “ability to redefine resource requirement, allocation rules and algorithms to more efficiently (dynamically allocate not over-allocate or under-allocate, emphasis added) utilize resources.”

As stated in MPEP § 2143.01, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). As agreed to by the Examiner, these elements are not taught by Chellis. Applicant does not believe these limitations are suggested by Chellis either. The mere reference to generic actions such as “over-allocating” and “under-allocating” (which are referenced in paragraph 5 as “artifacts of inflexible allocation rule and/or algorithms), and “redefine resource requirement allocation rules and algorithms” does not suggest all of the claim limitations as required by MPEP § 2143.01.

Chellis does disclose allocating resources, consuming resources, and monitoring resources but that does not equate to the specific limitations of:

allocating a percentage for user B based on the availability of the shared resource to user A,

if the shared resource is unavailable to user A, the allocation percentage for user B is decreased,

if the shared resource is available to user A the allocation percentage for user B is increased.

Applicant believes that these specific limitations of the instant invention cannot be properly suggested by Chellis by pointing to generic references to Chellis. Just because Chellis states an ability to redefine resource requirements, allocation rules and algorithms to more efficiently utilize resources, does not logically infer all of the specific limitations above.

For the reasons described above, Applicant respectfully believes the current independent claims, as well as the claims that depend from them, are in condition for allowance and respectfully request that they be passed to allowance.

Respectfully submitted,  
WEST CORPORATION

Date: November 30, 2007

By: /Raffi Gostanian/

Raffi Gostanian  
Reg. No. 42,595  
Tel: (972) 849-1310



29129

PATENT & TRADEMARK OFFICE

11808 Miracle Hills Drive  
Omaha, Nebraska 68154  
(402) 965-7077